IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. CRIMINAL REVISION PETITION NO.407/2006

Bhajana Ram & Ors.
vs.
State of Rajasthan)

Date of order :: 23.05.2006

HON'BLE MR.JUSTICE H.R. PANWAR

Mr.Sumerdan, for the petitioners.
Mr.J.P.S. Choudhary, Public Prosecutor.

By the instant criminal revision petition under Section 397 read with 401 Cr.P.C. petitioners have assailed the order dated 28th April, 2006 passed by learned Additional Sessions Judge (Fast Track), No.1, Bikaner, whereby the learned trial court framed the charges against the petitioners for the offence under Sections 307, 307/149, 332, 332/149, 353, 353/149, 148 I.P.C. and Section 3/25 of the Arms Act.

Aggrieved by the order impugned framing charges, petitioners have filed the instant revision petition.

I have heard learned counsel for the petitioners and the learned Public Prosecutor for the State and also carefully gone through the order impugned and perused the challan papers.

It is contended by the learned counsel for the petitioners that petitioners No.7 Smt. Imarati, No.8 Smt. Jamuna Devi and No.9 Smt.Roshani, these three ladies have neither been named in the FIR nor in the statement of any of the prosecution witnesses recorded by the Police under Section 161 Cr.P.C., inasmuch as, even the three injured witnesses namely Satish Kumar, Suraja Ram and Sona Ram have also not named them as assailants and, therefore, as against these three ladies even the prosecution case remains un-controverted, no offence whatsoever has been made out. It is further contended that the offence under Sections 307, 307/149 IPC is not made out from the material placed on record by the police after investigation. He has invited my attention to the injuries suffered by the injured Satish Kumar, Suraja Ram and Sona Ram. The injuries are simple in nature by blunt object on non-vital parts and, therefore, counsel for the petitioners submitted that there is no evidence to the effect that the injuries were caused with the intention or the knowledge or under such circumstances that by that act if death cause, they would be guilty of murder.

Learned Public Prosecutor submitted that so far as three ladies petitioners No.7, 8 and 9 are concerned, of course they are neither named in FIR nor in the statement of witnesses merely because they are member of the family of the other petitioners

appears to have been implicated. Learned Public Prosecutor failed to show any evidence, by which, it can be inferred that the injuries inflicted by the petitioners were with the intention to cause death of any of the injured.

I have given thoughtful consideration to the rival contentions raised by the learned counsel for the parties and carefully perused all the statements of witnesses. It appears that the injured Satish Kumar suffered two injuries one by sharp weapon, simple in nature at left palm and other on middle of left leg by blunt object simple in nature. Injured Suraja Ram suffered one injury i.e. abrasion on root of middle finger of right hand of 0.5x0.5 cm by blunt object which is simple in nature and injured Sona Ram suffered four injuries simple in nature on middle of index finger of left hand, lower half of right leg, lower 1/3 of left leg with swelling and medial aspect of lower 1/3 of right arm just above elbow.

Keeping in view, the nature of injuries suffered by the injured which are on non-vital parts and simple in nature, it cannot be inferred that the petitioners inflicted injuries with such intention or knowledge and under such circumstances that if by their act death caused they will be guilty of murder. Thus, from the evidence on record, there is no ground to presume that the petitioners have committed the offence under Section 307, 307/149 IPC as the

offence under this Section has not been made out from the material placed on record and, therefore, order impugned framing charge for the offence under Section 307, 307/149 IPC cannot be sustained and is liable to be set aside.

In the result, the criminal revision petition is partly allowed. The order impugned framing charges against the petitioners No.7 Smt.Imarati Devi, No.8 Smt. Jamuna Devi and No.9 Smt.Roshani is set aside and they are discharged of the offences. The order impugned framing charge against the petitioners No.1 to 6 for the offence under Sections 307, 307/149 is set aside and they are discharged of the offences under Section 307 and 307/149 IPC. However, the other charges framed against the petitioners No.1 to 6 by the learned trial court are maintained. The trial court shall proceed in accordance with Section 228 Cr.P.C.

[H.R. PANWAR],J.

Ashwini/-